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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,418	02/07/2002	Jean-Louis Gouret	219195US6	7880

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EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- ☒ R sponse to communication(s) filed on 4/25/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- ☐ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) 1-7, 19-21 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 8-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. Applicant's election with traverse of claims 8-18 in Paper No. 11 is acknowledged. The traversal is on the ground(s) that any search of the elected method claims would also include the classes and subclasses appropriate for searching the product and apparatus claims. This is not found persuasive because the fields of search for the claimed article as opposed to the method of claims 19 and 20 would involve a significantly different field of search.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, in claim 8, lines 2 and 3 it is suggested to change the phrase "wherein the adhesive masking strip comprises a body" to --said masking strip cellular material--. Additionally, several elements in the claims, such as "said guide groove" (claim 9) and "the groove bottom" (claim 12) appear to lack antecedent basis.

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4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over GB 2,223,425. The reference discloses (note particularly the Abstract and Figures, page 1 lines 6-14, page 2 lines 5-23, page 3 lines 1-7, lines 10-13, line 23 - page 4 line 4, page 4 lines 13-22, page 5 lines 3-5, claims 2 and 4) substantially an anticipation of at least applicant's broad claim except for the recitation of the angle which the groove forms in the "sponge or like material" taught by the reference, i.e. a "compressible foam" (page 5 line 4). However, the Figures appear to disclose a material which has substantially the same geometrical relationships for at least the broad claim and which is used in the identical <sup>field</sup> ~~argument~~ as that of the claimed invention. Additionally, and perhaps more importantly, the various geometrical relationships which are claimed by applicant throughout not only independent claim 8 but also the dependent claims are believed to be mere optimization parameters that are

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well within the ordinary skill of the artisan, in the absence of unexpected results not heretofore set forth on the record. With respect to claim 18 wherein applicant claims a polyurethane foam, the Examiner believes that this is both within the skill of the art and also note EPA 384626, column 7, lines 13-26 where a number of foams including polyurethane are taught as particularly suitable for use in the same environment that applicant contemplates. What other parameters that are not either expressly or inherently disclosed are each believed to be obvious modifications to one of ordinary skill, in the absence of unexpected results.

6. Note also EPA 365510, cited by applicant in his specification and Horiki et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

May 22, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-  
1700

*Daniel Zinker*